STATE OF MICHIGAN
IN THE SUPREME COURT

TOMRA OF NORTH AMERICA,

Plaintiff-Appellee,

v

DEPARTMENT OF TREASURY,

Defendant-Appellant.
_____/

Supreme Court No.

Court of Appeals Docket
Nos. 337663

Court of Claims Docket
No. 14-000091-MT consolidated with
14-000185-MT

The appeal involves a ruling that a provision of the Constitution, a statute, rule or regulation, or other State governmental action is invalid.

DEPARTMENT OF TREASURY'S APPLICATION FOR LEAVE TO APPEAL

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STATEMENT OF JUDGMENT/ORDER APPEALED FROM AND FELIEF FOUGHT

Appellant Michigan Department of Treasury seeks leave to appeal from the Court of Appeals' July 17, 2018 opinion reversing the Court of Claims' grant of summary disposition to the Appellants. (Ex A, *Tomra of North America v Dep't of Treasury*, __ Mich App __ ; __ NW2d __ (2012)(Docket No. 337663).) The Court of Claims correctly held that the Sales Tax Act's and Use Tax Act's plain language requires property to perform an activity within the statutorily defined time-period to qualify for the industrial processing exemption. (Ex B, Court of Claims' Op, pp 4–5, 7)(citing MCL 205.54t(7)(a)). "Industrial processing begins when tangible personal property begins movement from raw material storage to begin industrial processing and ends when finished goods first come to rest in finished goods inventory storage." In a 2–1 published decision, the Court of Appeals reversed.

The Court of Appeals determined that the availability of the industrial processing exemption is determined by what use the customer makes of the property, not when the subject property performs an exempt activity. In so doing, the Court of Appeals expanded the industrial processing exemption to include property that has not yet begun to perform "industrial processing" according to the exemptions' explicit temporal limitation.

Accordingly, Treasury respectfully requests that the Court grant leave to appeal and reverse the Court of Appeals.

STATEMENT OF QUESTION PRESENTED

1. The industrial processing exemption to the Sales Tax Act exempts from taxation property sold for use in an industrial processing activity by, for, or on behalf of an industrial processor. The statute defines "industrial processing" as a process that "*begins* when tangible personal property *begins* movement from raw material storage to begin industrial processing . . . ." MCL 205.54t(7)(a) (emphasis added). Did the Court of Appeals err when it determined that property performing an activity *before* tangible personal property begins movement from raw material storage qualifies for the industrial processing exemption?

   Appellant's answer: Yes.

   Appellee's answer: No.

   Court of Claims' answer: Yes.

   Court of Appeals' answer: No.

STATUTE INVOLVED

205.54t Exemptions; limitation; industrial processing; definitions.

Sec. 4t.

(1) The tax levied under this act does not apply to property sold to the following after March 30, 1999, subject to subsection (2):

(a) An industrial processor for use or consumption in industrial processing.

* * *

(2) The property under subsection (1) is exempt only to the extent that the property is used for the exempt purpose stated in this section. The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

(3) Industrial processing includes the following activities:

(a) Production or assembly.

(b) Research or experimental activities,

(c) Engineering related to industrial processing.

(d) Inspection, quality control, or testing to determine whether particular units of materials or products or processes conform to specified parameters at any time before materials or products first come to rest in finished goods inventory storage.

(e) Planning, scheduling, supervision, or control of production or other exempt activities.

(f) Design, construction, or maintenance of production or other exempt machinery, equipment, and tooling.

(g) Remanufacturing.

(h) Processing of production scrap and waste up to the point it is stored for removal from the plant of origin.

(i) Recycling of used materials for ultimate sale at retail or reuse.

(j) Production material handling,

(k) Storage of in-process materials.

(6) Industrial processing does not include the following activities:

(a) Purchasing, receiving, or storage of raw materials.

* * *

(7) As used in this section:

(a) "Industrial processing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property for ultimate sale at retail. . . . Industrial processing begins when tangible personal property begins movement from raw materials storage to begin industrial processing and ends when finished goods first come to rest in finished goods inventory storage.

* * *

INTRODUCTION

This is a tax dispute involving one of the costliest and frequently litigated exemption from Michigan's Sales Tax Act—the industrial processing exemption. The industrial processing exemption is complex. But this case presents the Court with an opportunity to address the Legislature's intended scope of the exemption in a context every Michigander is familiar with—bottle return machines. The Court of Appeals determined that bottle return machines can qualify for the exemption, even though the machines perform an activity *before* "industrial processing" begins according to the statutory definition.

Granting leave to appeal is warranted for multiple reasons:

- First, this case presents fundamental and recurring sales and use tax issues of significant public interest. MCR 7.305(B)(2). Taxpayers routinely dispute the Michigan Department of Treasury's administration of the industrial processing exemption. For the very first time, a Michigan appellate court has ruled in a published decision that property performing an activity *before* the defined industrial process begins is exempt from tax. The Court of Appeals' dramatic expansion of the industrial processing exemption will have a direct impact on state revenue.

- Second, this case concerns fundamental legal principles of major significance to the State's jurisprudence. MCR 7.302(B)(3). The Court of Appeals' ruling in this case runs contrary to the decades-old doctrine in Michigan that a term defined by a statute is binding on the courts. *Haynes v Neshewat*, 477 Mich 29, 35 (2007). The ruling also violates the long-standing rule that tax exemptions are allowed only when the Legislature provides for them and must not be expanded by inference. *Ally Fin, Inc v State Treasurer*, __ Mich __ ; __ NW2d __ (2018) (Docket No. 154668); slip op at 6; *Ladies Literary Club v Grand Rapids,* 409 Mich 748, 754 (1980). Indeed, the conflict between the Court of Appeals' decision and this Court's precedent is another basis for either preemptory reversal or leave to appeal. MCR 7.305(B)(5)(b).

- Third, the Court of Appeals' decision conflicts with this Court's interpretation of the same statute in *Detroit Edison Co v Dep't of*

Treasury, 498 Mich 28 (2015). MCR 7.305(B)(5)(b). In that case, this Court confirmed that exempt industrial processing applies only to property performing an activity during a statutorily defined time period. Contrary to this Court's precedent, the Court of Appeals concluded that exempt industrial process can occur even if the property performs an activity *before* the defined statutorily time-period begins.

- And finally, the Court of Appeals' opinion is clearly erroneous and will cause material injustice to the State of Michigan and to taxpayers. MCR 7.302(B)(5)(a). The Court of Appeals opinion directly conflicts with the plain language of the industrial processing exemption and this Court's precedent. If leave is denied, the Court of Appeals' published decision will become a judicially created tax loophole that will result in the loss of millions of tax dollars, all at the expense of Michigan business and individual taxpayers.

For all these reasons, and those discussed more comprehensively below, Treasury respectfully requests that this Court grant leave to appeal and reverse the Court of Appeals.

STATEMENT OF FACTS AND PROCEEDINGS

Tomra sells reverse vending machines to supermarkets and liquor stores in Michigan. (Def's Mot Summ Disp, Ex A, Dep Tr, C. Reigle, pp 12–13) Reverse vending machines are a "device designed to properly identify and process empty beverage containers and provide a means for a deposit refund on returnable containers." MCL 445.572a(12)(i). These machines are commonly recognized as the bottle return machines located at grocery stores and other retail establishments where returnable bottles and cans are collected.

Treasury audited Tomra for sales tax for the period of October 1, 2003 through December 31, 2008. (Def's Mot Summ Disp, Ex D, Audit Report of Findings, p 2.) As a result of the audit, Treasury assessed sales tax on the reverse vending machines and related parts Tomra sold to Michigan customers. (Def's Mot Summ Disp, Ex D, Audit Report of Findings, Ex J, Notice of Preliminary Audit Determination, Ex K, Final Audit Determination, Ex W, Final Assessment.) Treasury determined, among other things, that the property was not exempt from Michigan Sales Tax because the property was not sold to Michigan customers for their use in an industrial processing activity. (*Id.*) Treasury issued Final Assessment TH82977 against Tomra for $516,562.00 in tax, $58,502 penalty, and interest. (Def's Mot Summ Disp, Ex W, Final Assessment.) Tomra paid the sales tax assessed under protest and filed a Complaint challenging the assessment with the Court of Claims. (Compl in 14-000185-MT.)

Tomra also requested a $2,458,452 refund from Treasury claiming that Tomra charged and collected $2,458,452 in sales tax from its Michigan customers

for the October 1, 2003 through December 31, 2008 period – the same time period covered by Treasury's audit. (Def's Mot Summ Disp, Ex L, 12/2/11 Letter.) Tomra appealed the Department's decision to deny the sales tax refund request to the Court of Claims on May 8, 2014. (Compl in 14-000091-MT.)

The Court of Claims determines that property performing activities before the industrial process begins do not qualify for the industrial processing exemption.

The Court of Claims consolidated the cases on September 10, 2015. The Court of Claims (Judge Talbot presiding) granted summary disposition in favor of Treasury, affirmed Treasury's assessment and refund denial and held that Tomra failed to meet the industrial processing exemption's statutory requirements. (Ex B, Court of Claims Op.) The Court of Claims held that reverse vending machines "are not themselves part of the industrial process." (*Id.* p 5.) To reach that result, the Court of Claims applied the second sentence of MCL 205.54t(7)(a) which defines "industrial processing" as an activity that occurs during a specific time period: some point *after* "tangible personal property begins movement from raw material storage to begin industrial processing" but *before* "finished goods first come to rest in finished goods inventory storage." (*Id.* pp 4-5, 7, Italics added.) Consistent with that interpretation, the Court of Claims determined that the reverse vending machines do not qualify for the exemption because they perform activities *before* the defined industrial process. As the Court of Claims reasoned, finding otherwise would have required it to find that every-day consumers hold used beverage

containers in raw material storage. In the Court of Claims own words, "[s]uch a result is simply irrational." (Ex B, Court of Claims Op p 5.)

The Court of Claims also discredited Tomra's reliance on four different modifiers found in MCL 205.54t(3) that identify specific activities that are considered industrial processing activities. Those subsections, the Court of Claims reasoned, "do not alter when the process begins and ends. Rather, these latter statutes enumerate specific activities [e.g., inspection, quality control, recycling] that, when they occur between the start and end point of the industrial process, are industrial processing activities." (*Id.* p 6.) Reasoning again that "industrial processing" begins only after tangible personal property is removed from raw material storage, the Court of Claims agreed with Treasury that Tomra does not qualify for the industrial processing exemption, "regardless of whether Plaintiff's recycling machines perform tasks that might fit within any specific provision of MCL 205.54t(3), because those activities occur before the industrial process begins[.]" (*Id.*, p 7.) The Court of Claims also determined that the reverse vending machines are, "[a]t best, . . . the means of receiving and storing raw materials," events the Legislature specifically excluded from the industrial process. (*Id.* p 5.)

The Court of Appeals reverses, determining that the availability of the industrial processing exemption is determined by what use the customer makes of the property, not when the property performs an exempt activity.

The Court of Appeals reversed the Court of Claims' decision. The Court began by acknowledging that the Court of Claims construed the second sentence of MCL 205.54t(7)(a) "as meaning precisely what it says, that industrial processing

begins when tangible personal property begins movement from raw material storage, and we agree." *Tomra*, slip op at 6. The Court then concluded that, despite this, the statute does not "mean that industrial processing can *never* occur unless, first, tangible personal property begins movement from raw material storage." (*Id.*, emphasis in original.)

The Court's reasoning involved a three-step process. First, the court determined that entitlement to a tax exemption "is determined by what use the customer makes of the product sold by the taxpayer." (*Id.,* Slip Op at 4.) Second, the court looked beyond the statutory definition establishing when "industrial processing" can begin. Instead, the court focused on the activities listed in another subsection that are industrial processing activities. The court interpreted those activities as an expansion of the otherwise clear "industrial processing" definition or, conversely, as an *in lieu* of provision. And third, the court declared that "read[ing] the language of subsection 7(a) . . . as a temporal requirement . . . would render" the activities enumerated in subsection (3) "meaningless." (*Id.*, Slip Op at 7.) According to the Court of Appeals, the Legislature included the second sentence of the industrial processing definition so that at the time the property begins movement from raw materials storage to begin industrial processing, "one can rest assured that industrial processing has begun." (*Id.,* Slip Op at 7.)

In her dissent, Judge K.F. Kelly noted that "[t]he analysis in this case should begin and end with the statutory definition of 'industrial processing' . . . ." Ex C, *Tomra of North America v Dep't of Treasury*, __ Mich App __ ; __ NW2d __

(2012)(Docket No. 337663) (Kelly, K.F., dissenting); Slip Op at 1. Like the Court of Claims, the dissent noted that "[i]n order to be exempt, the machines must perform an activity at some point after tangible personal property begins movement from raw material storage and before the finished goods first come to rest in inventory." (*Id.,* Slip Op at 2.) Also like the Court of Claims, the dissent reasoned that "only after the definition in subsection 54t(7)(a) is met do the activities set forth in subsection 54t(3) have any relevance. Those activities must occur within the statutory defined time period in subsection 54t(7)(a)." (*Id.*, Slip Op at 2.) Applying that reasoning, Judge K.F. Kelly agreed with the Court of Claims that machines performing an activity outside the industrial processing time frame (in this case before industrial processing begins) cannot qualify for the industrial processing exemption.

ARGUMENT

I. This Court's review is necessary to affirm that property performing an activity before the statutorily defined industrial process begins is not tax exempt.

A. Issue preservation

This issue has been preserved because it was briefed, argued, and decided by both the Michigan Court of Claims and the Michigan Court of Appeals.

B. Standard of Review.

Whether Tomra is entitled to the tax exemption it seeks is a question of law that turns on the interpretation of a statute, which this Court review de novo. *Ally Fin, Inc.*, Slip Op at 6.

C. Analysis

The General Sales Tax Act, MCL 205.51 *et seq* (GSTA), imposes a 6% tax on the retail sale of tangible personal property in Michigan. The GSTA exempts tangible personal property from tax if the property is sold for use in industrial processing. MCL 205.54t. To qualify for the exemption, the property must perform an industrial processing activity within a statutorily defined time period. By legislative decision, property that performs an activity before the start of "industrial processing" is not exempt.

The Court of Appeals ignored the Legislature's decision to limit the tax exemptions' availability to property that performs an activity during a specific time period. Instead of applying the definition as written, the Court of Appeals held that property can qualify for the exemption, even if the property performs an activity *before* "industrial processing" begins according to the statute. This ruling, if allowed to stand, will result in the loss of millions of tax dollars through a judicially created tax loophole based on an erroneous interpretation of the exemption statutes.

1. Property performing activities before the defined industrial process begins is not tax exempt.

For a sale to be exempt under the industrial processing exemption, the Legislature requires that three prerequisites be satisfied. Specifically, the sale must be eligible property sold to an industrial processor or person for use in industrial processing. MCL 205.54t(1), (3), (4). The focus of the trial court's and Court of Appeals' decision was the meaning of "industrial processing" for purposes of the exemption. Because the "overall concern of the industrial processing exemption . . .is, of course, industrial processing," this Court explained that "[i]t is only logical therefore, to first determine whether 'industrial processing' has occurred." *Detroit Edison Co,* 498 Mich at 39 (2015). The first sentence of the Legislature's definition of industrial processing identifies the general type of activity that constitutes industrial processing:

> The activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property for ultimate sale at retail or for use in the manufacturing of a product to be ultimately sold at retail[.] [MCL 205.54t(7)(a).]

The definition's second sentence identifies when the industrial processing activity must occur:

> Industrial processing ***begins*** when tangible personal property begins movement from raw material storage ***to begin*** industrial processing and ends when finished goods first come to rest in finished goods inventory storage. [*Id*., emphasis added.]

In *Detroit Edison,* this Court established a two-step inquiry for assessing whether an activity qualifies as "industrial processing" as that phrase is defined in the exemption statute. *Detroit Edison*, 498 Mich at 41. The first inquiry focuses on

the activity the equipment performs: "The first inquiry under MCL 205.94o(7)(a) is whether [the activity] . . . constitutes 'converting or conditioning [of the tangible personal property] by changing the form, composition, quality, combination, or character . . . for ultimate sale at retail.'" *Id.* The second inquiry focuses on *when* the activity occurs: "The next inquiry required under MCL 205.94*o*(7)(a) is whether the industrial processing satisfies the second sentence, which provides that '[i]ndustrial processing begins when tangible personal property begins movement from raw materials storage to begin industrial processing and ends when finished goods first come to rest in finished goods inventory storage.'" *Id.*

Faithfully applying the statutory text, and consistent with this Court's *Detroit Edison v Dep't of Treasury* decision, Judge Talbot and Judge Kelly properly determined that the machines at issue in this case are not exempt because they perform activities that occur before "industrial processing" begins. Ex B, Court of Claims Op; Ex C, *Tomra,* slip op at 2 (Kelly, K.F., dissenting). The dissent explained:

> [t]he machines may sort, separate, and compress items and, in that regard, some processing necessarily occurs. However, while some processing may occur, the machines do not perform "*industrial* processing" as statutorily defined. Instead, the machines simply facilitate the collection of raw materials. [*Id.,* Slip Op, p 2.]

As the dissent notes, movement of tangible personal property from raw materials storage to begin industrial processing cannot take place because the cans and bottle have not yet been placed in raw materials storage. Thus, industrial processing has not begun. As a result, the dissent determined that bottle return machines do not perform activities within the temporal constraints found in the

second sentence of MCL 205.54t(7)(a) and therefore, are not engaged in "industrial processing" per the statutory text.

By strictly following the statutory language, Judge Talbot and Judge Kelly are correct because collecting, sorting, and storing used beverage containers are not activities that fall within the exempt industrial process. Those activities occur before exempt "industrial processing" occurs as envisioned by the Legislature. In other words, the cans are being collected from everyday consumers to move those cans into raw materials storage. And, by statute, industrial processing can begin *only* when the cans are taken out of that storage; not before. To hold otherwise requires a finding that everyday consumers, whether it be in their grocery carts, vehicles, or garages, hold used bottles and cans in "raw material storage." In Judge Talbot's words, "[s]uch a result is simply irrational." (Ex B, Court of Claims Op, p 5.)

2. The Court of Appeals' published decision erodes a major requirement from the industrial processing exemption and enlarges the tax exemption far beyond that contemplated by the Legislature.

The Court of Appeals did not honor the industrial processing exemption statute's plain language. Contrary to the statutory text and this Court's decision in *Detroit Edison v Dep't of Treasury*, the Court of Appeals interpreted the "industrial processing" definition as a one-step inquiry, not a two-step inquiry. In other words, so long as the property performs an activity contemplated by the first sentence of the industrial processing definition (including by enumeration in subsection (3)),

when the property performs the activity does not matter. The Court of Appeals' interpretation runs contrary to this Court's decades-old doctrine that when a statute provides its own definition of a word or term used therein, a court is compelled to give effect to that statutory definition. *Haynes v Neshewat*, 477 Mich at 35 (2007); *Mich Bell Telephone Co v Dep't of Treasury*, 455 Mich 470, 479 (1994*); Erlandson v Genesee Co Employee's Retirement Comm*, 337 Mich 195, 204 (1953). The Court of Appeals was required to give effect to the entire definition of "industrial processing," not just the first sentence. "Courts must give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory." *Admire v Auto-Insurer's Ins Co*, 494 Mich 10, 20 (2013) (internal citations omitted). In that regard, the definition in (7)(a) is clear:

> Industrial processing ***begins*** when tangible personal property begins movement from raw material storage ***to begin*** industrial processing

Machines must perform an activity *after* tangible personal property begins movement from raw material storage and before the finished goods first come to rest in inventory. Equipment like the equipment at issue in this case is unequivocally used *before* the start of the industrial process and cannot qualify for the industrial processing exemption as a matter of law.

Contrary to the Court of Appeals' conclusion, that interpretation does not require the Court to "read into the plain language of the statute the stricture that 'no activity qualifies as industrial processing unless it is predated by tangible personal property leaving raw material storage.' " (Ex A, *Tomra*, Slip Op at 7.) Nor

does it require the Court to render the activities in subsection (3) meaningless. (*Id.*) As the Court of Claims explained:

> Harmonizing these provisions is a fairly simple exercise: those activities defined by MCL 205.54t(3) and MCL 205.94o(3) that occur during the industrial process—i.e., between the time when "tangible personal property begins movement from raw materials storage to begin industrial processing and ends when finished goods first come to rest in finished goods inventory storage," are part of the industrial process. Thus, regardless of whether Plaintiff's recycling machines perform tasks that might fit within specific provisions of MCL 205.54t(3) or MCL 205.94o(3), because those activities occur before the industrial process begins, the exemptions found in MCL 205.54t and MCL 205.94o do not apply. [Ex B, Court of Claims Op, 7, emphasis in original.]

That conclusion and the Court of Appeals' dissenting opinion follow the rules of statutory interpretation and are consistent with this Court's prior interpretation of the industrial processing exemption.

The Court of Appeals also failed to adhere to this Court's longstanding rule of construction that tax exemption statutes, if construction is necessary, must be construed narrowly in favor of the taxing authority. *Ally Fin, Inc* v *State Treasurer*, __ Mich __ ; __ NW2d __ (2018) (Docket No. 154668); Slip Op at 6; *Ladies Literary Club v Grand Rapids*, 409 Mich 748, 754 (1980) Furthermore, " 'if an exemption is found to exist, it must not be enlarged by construction, since the reasonable presumption is that the State has granted in express terms all it intended to grant at all, and that unless the privilege is limited to the very terms of the statute the favor would be extended beyond what was meant.' " *General Motors Corp v Dep't of Treasury*, 290 Mich App 355, 369–370 (2010), citing *GMAC LLC v Dep't of Treasury*,

286 Mich App 365, 375 (2009), quoting *Detroit v Detroit Commercial College*, 322 Mich 142, 148, 149 (1948).

Had the Court of Appeals narrowly construed the exemption language like it was required to do, it would have denied Tomra's exemption claim because reverse vending machines perform an activity before the defined industrial process begins. The Court instead eroded a cornerstone requirement from the industrial processing exemption. The result is a tax exemption that is enlarged far beyond that contemplated by the Legislature.

According to the Court of Appeals, the timing of when an action occurs no longer matters when determining whether the industrial processing activity requirement of the exemption statute has been satisfied. All a person must do to satisfy the industrial processing activity requirement is demonstrate that the property is used in some type of industrial processing activity. Contrary to the statutes' definitions, *when* the person uses the property no longer matters. For example, under the Court of Appeals' approach, a grocery store would no longer pay sales tax or use tax on a paper shredder. A cardboard box compactor would be exempt, too. In both instances, the property performs an industrial processing activity (i.e. recycling) and when the machines perform that activity no longer applies. This case alone concerns approximately $700,000. But that number does not reflect the creative ways other taxpayers will ensure that their property fits within the Court of Appeal's decision. In short, the potential for abuse and the

impact on the State's revenue that will result from the Court of Appeal's erroneous expansion of the industrial processing tax exemption is significant.

3. The reverse vending machines perform an activity that is specifically non-exempt.

As discussed in detail above, the Court of Appeals improperly analyzed the significance of the timing requirements set forth in subsection (7)(a). But the Court did not have to engage in the flawed analysis because the record before it made clear that the exemption was not available to this taxpayer.

As the Court of Claims found below (Ex B, p 5) and as Treasury argued in its brief (Df's Appeal Br, p 21–22), the equipment at issue here, at best, receives and stores raw materials. By explicit legislative directive, those activities are not industrial processing activities, *regardless of the timing of such activity*. MCL 205.54t(6)(a) ("Industrial processing *does not include the following activities* . . . (a) Purchasing, receiving, or storage of raw materials.") (emphasis added)). By an apparent oversight, the Court of Appeals did not address this portion of the statute.

By failing to recognize that another section of the statute precluded Tomra from benefiting from the exemption, the Court created a loophole that could have been avoided. This Court should grant leave to clarify that the Court of Appeals should not have engaged in the flawed analysis of the timing requirements imposed under Subsection 7(a) when an alternative and dispositive basis to affirm the trial court's decision to award summary disposition to Treasury existed.

CONCLUSION AND RELIEF REQUESTED

The Court of Appeals erroneously rewrote and expanded a tax exemption, extending the tax exemption to property performing activities that are well beyond what the Legislature intended. If allowed to stand, the Court of Appeals' opinion will impact the public coffers and disrupt the well-established principles of statutory construction.

Accordingly, Treasury respectfully requests that this Court grant this Application for Leave, reverse the Court of Appeals, and affirm the Court of Claim's Order granting Treasury's motion for summary disposition. In so doing, this Court should hold that the scope of Michigan's industrial processing exemption is limited to property performing activities during the statutorily defined time period and not to property used before industrial processing even begins.

Respectfully submitted,

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